Paducah v. *Jones,* 126 Ky. 809, 104 S. W. 971, *People* v. *Blom,* 120 Mich. 45. But should the fact that the act is punishable by state law make any difference? If a municipality attempts to make penal an act already made such by state law, whether the ordinance will be effectual or not depends upon whether or not the state has given the municipality power to make such ordinance. 2 DILLON MUNIC. CORP. (5th Ed.) § 632; *People* v. *Hanrahan,* 75 Mich. 611; *People* v. *Furman,* 85 Mich. 110, 48 N. W. 169; *City of Spartansburg* v. *Parris,* 85 S. C. 227, 67 S. E. 246. If the grant is not express, courts are divided upon what amounts to a grant of power. Many hold that under a general welfare clause, the city has the power to enact an ordinance upon a subject covered by state law. COOLEY, CONSTITUTIONAL LIMITATIONS, (7th Ed.) 279, *Mobile* v. *Allaire,* 14 Ala. 400; *Town of Avoca* v. *Heller,* 129 Ia. 227; *Ex Parte Simmons,* 115 Pac. 380. Others hold that under a general grant of power, no such authority is given to a municipality. *Ex Parte Sic,* 73 Cal. 142, 14 Pac. 403; *Savannah* v. *Hussey,* 21 Ga. 80; *Thrower* v. *City of Atlanta,* 124 Ga. 1, 52 S. E. 76, 1 L. R. A. (N. S.) 382; *Judy* v. *Lashly,* 50 W. Va. 628, 57 L. R. A. 413, 41 S. E. 197. Georgia holds this doctrine to the extent that an ordinance is impliedly repealed by the subsequent enactment of a statute on the same subject. *Straus* v. *Waycross,* 97 Ga. 475, 25 S. E. 329; *Moran* v. *Atlanta,* 102 Ga. 840, 30 S. E. 298. It was decided in *Campbell* v. *City of Thomasville,* 6 Ga. App. 212, 64 S.E. 815, that an ordinance prohibiting the sale of near-beer to a minor was unenforceable because the same act was prohibited by state law, and *Burch* v. *City of Ocilla,* 62 S. E. 66, held that the right to punish for the sale of intoxicating liquors was reserved to the state. If the municipality could not directly punish the sale of intoxicating liquor or storage of it at a near-beer vendor's place of business it would seem to follow that it could not do so indirectly through a bond for a specified sum exacted to enforce the state law.

PUBLIC OFFICERS—ELIGIBILITY—AT WHAT TIME DETERMINED.—Plaintiff, by writ of prohibition, seeks to prevent the state canvassing board from certifying the nomination of the defendant Black as Governor on the Democratic ticket. At the time of the primary election, at which Black received the highest vote, he was judge of the Superior Court and his term would not expire until January 13, 1913, while the next gubernatorial term commenced January 15, 1913. The constitution provides "Judges of the Superior Court shall be ineligible to any other office than judicial during the term for which they shall be elected." Held, by a divided court that "ineligible" as used by the constitution applied at the time of the election, and one disqualified at that time, even though he might subsequently remove this disqualification, was ineligible to hold any office to which he might be elected. *State ex. rel Reynolds* v. *Howell et al.* (Wash. 1912) 126 Pac. 954.

The question raised is one that has frequently been before the courts and upon which there is a square conflict of authority. In *Taylor* v *Sullivan,* 45 Minn. 309, 47 N. W. 802, 11 L. R. A. 272, 22 Am. St. Rep. 729, the leading case in support of the view taken in the principal case, the court commented, "Eligible is derived from the Latin verb *"eligere"*—to choose or select.....

and there seems to be no sufficient reason why the proper and ordinary meaning should not be given to the word "eligible" as though it had read "no person shall be qualified to be elected." That eligibility applies to the time of election and not to the time of entering upon the duties of the office is sustained in the following cases: *Minnesota* v. *Smith,* 3 Minn. 164, 74 Am. Dec. 749; *State* v. *McMillan,* 23 Neb. 385, 36 N. W. 587; *State* v. *Boyd,* 31 Neb. 682, 48 N. W. 739; *State* v. *Moores,* 52 Neb. 770, 73 N. W. 299; *Nevada* v. *Clark,* 3 Nev. 566; *State* v. *Clark,* 21 Nev. 333; *State* v. *Lake,* 16 R. I. 511, 17 Atl. 552; *People* v. *Board of Canvassers,* 129 N. Y. 360, 29 N. E. 345; *Searcy* v. *Grow,* 15 Cal. 121; *People* v. *Leonard,* 73 Cal. 230, 14 Pac. 583; *Sheehan* v. *Scott,* 145 Cal. 684, 79 Pac. 350 (but see *Ward* v. *Crowell,* 142 Cal. 587, 76 Pac. 491); *Finklea* v. *Farish,* 150 Ala. 230, 49 S. 366; *Roane* v. *Matthews,* 75 Miss. 94, 21 S. 665; *Rex ex rel Zimmerman* v. *Steele,* 5 Ont. L. Rep. 565; *Rex ex rel O'Donnell* v. *Brownfield,* 5 Ont. L. Rep. 596; *Queen* v. *Eddowis,* 1 E. & E. 330; *Queen* v. *Coakes,* 3 E. & B. 248. But there seems to be an equal amount of authority sustaining the view that eligibility applies to the time of entering office and not to the time of election. In *Bradfield* v. *Avery,* 16 Idaho, 769, 102 Pac. 687, 23 L. R. A. (N. S.) 1228, the leading case in support of this view, it was said, "Eligible to office clearly implies the qualification or capacity to hold the office. While it may mean capable of being chosen yet where such a meaning is not clearly indicated, we think naturally it applies to one's fitness to hold the office." The case is supported by *Smith* v. *Moore,* 90 Ind. 294; *Brown* v. *Gobin,* 122 Ind. 113, 23 N. E. 519; *Shuck* v. *State ex rel Cope,* 136 Ind. 63, 35 N. E. 993; *Hoy Major* v. *State,* 168 Ind. 506, 81 N. E. 509; *Commonwealth* v. *Pyle,* 18 Pa. 519; *De Turk* v. *Commonwealth,* 129 Pa. St. 151, 18 Atl. 757; *State* v. *Breuer,* 235 Mo. 240, 138 S. W. 515; *Prevett* v. *Beckford,* 26 Kan. 52; *Damaree* v. *Scates,* 50 Kan. 275, 32 Pac. 1123, 20 L. R. A. 97, 34 Am. St. Rep. 113; *People* v. *Hamilton,* 24 Ill. App. 609; *Kirkpatrick* v. *Brownfield,* 97 Ky. 558, 31 S. W. 137, 29 L. R. A. 705, 59 Am. St. Rep. 422; *State* v. *Van Beek,* 87 Ia. 569; 54 N. W. 525, 19 L. R. A. 622, 43 Am. St. Rep. 397; *State* v. *Breckenridge,* (Okla.) 126 Pac. 806; *Schuet* v. *Murray,* 28 Wis. 101; *State* v. *Trumpf,* 50 Wis. 103. In reference to Federal officers McCREARY, on ELECTIONS 4th Ed. § 346 states, "It has been the constant practice of the congress of the United States to admit persons to seats in that body who were ineligible at the date of their election but whose disabilities had been subsequently removed." But when the term of office held does not expire until after the office to which the party has been elected begins the elected party is ineligible to take even though he resigns his first office. *Waldo* v. *Wallace,* 12 Ind. 569; *Gulick* v. *New,* 14 Ind. 93.

SALES—MONOPOLIES—LIABILITY OF PURCHASER FOR THE REASONABLE VALUE OF THE GOODS.—Plaintiff sold to defendant patterns under a two-year contract by which defendant agreed to handle no other patterns and to sell at prices to be fixed from time to time by the plaintiff. To a declaration upon account of goods sold and delivered defendant pleaded that the contract came under §§ 5002-3 of the Mississippi Code. This statute, after defining